

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH G. CUA,
Petitioner,

v.

W. L. MONTGOMERY,
Respondent.

Case No. [15-cv-01119-VC](#)

ORDER TO SHOW CAUSE

Joseph G. Cua, a state prisoner incarcerated at Calipatria State Prison, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his conviction for murder with special circumstances in the San Mateo County Superior Court. Cua has paid the \$5.00 filing fee.

It does not appear from the face of the petition that it is clearly without merit. Good cause appearing, the Court hereby issues the following orders:

1. The Clerk of the Court shall serve a copy of this Order and the petition and all attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk also shall serve a copy of this Order on Cua.

2. No later than sixty days from the date of this Order, Respondent shall file with this Court and serve upon Cua an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer all portions of the state record that have been transcribed previously and are relevant to a determination of the issues presented by the petition. If Cua wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within thirty days of his receipt of the Answer. If he does not do so, the petition will be deemed

1 submitted and ready for decision on the date the Traverse is due.

2 3. No later than sixty days from the date of this Order, Respondent may file with this Court
3 and serve upon Cua a motion to dismiss on procedural grounds in lieu of an Answer, as set forth in
4 the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If
5 Respondent files such a motion, Cua shall file with the Court and serve on Respondent an
6 opposition or statement of non-opposition to the motion within thirty days of receipt of the
7 motion, and Respondent shall file with the Court and serve on Cua a reply within fourteen days of
8 receipt of an opposition.

9 4. It is Cua's responsibility to prosecute this case. He must keep the Court informed of
10 any change of address by filing a separate paper with the Clerk headed "Notice of Change of
11 Address," and must comply with the Court's orders in a timely fashion. He also must serve on
12 Respondent's counsel all communications with the Court by mailing a true copy of the document
13 to Respondent's counsel.

14 5. Extensions of time are not favored, though reasonable extensions will be granted. Any
15 motion for an extension of time must be filed no later than ten days prior to the deadline sought to
16 be extended.

17 **IT IS SO ORDERED.**

18 Dated: April 3, 2015



VINCE CHHABRIA
United States District Judge